


INDEPENDENT POLICE REVIEW AUTHORITY

06 October 2014
Log #1067303/U #14-03

TO: Chief Administrator 
Independent Police Review Authority

FROM: Investigator William Abbruzzese #170

SUBJECT: Log #1067303
U #14-03

REFERENCE: RD #HX137433 – Armed Robbery with a Handgun
RD #HX137701 – Justifiable Homicide

DATE/TIME: 03 February 2014, 1031 hours

LOCATION: [REDACTED] N. Milwaukee Avenue – Walgreens Drug Store
Beat 1623

INVOLVED OFFICER: FLORES, Jorge; M/H; Star #15489; Unit 012; Employee # [REDACTED]; DOB: [REDACTED]
DOA: 01 May 2006; Off-Duty.

OFFICER WEAPON: Sig Sauer; Model: P229; 9 MM; Semi-Automatic; Serial # [REDACTED]; City Registration # [REDACTED] FOID # [REDACTED] Fired (1) round.

OFFICER'S INJURIES: None Reported

SUBJECT: [REDACTED]; M/W; DOB: [REDACTED] IR #405101; Address: [REDACTED]
W. Higgins, [REDACTED], Chicago, IL.

SUBJECT'S WEAPON: Gamo V3 Air Pistol, Black BB Gun

SUBJECT'S INJURIES: (1) Through-and-through gunshot wound to chest. Transported to Advocate Lutheran General Hospital. Condition: Deceased

SUMMARY OF INCIDENT:

On 03 February 2014, at approximately 1031 hours, the subject, now known to be [REDACTED] entered Walgreens, located at [REDACTED] N. Milwaukee Avenue. [REDACTED] approached the cashier, now known as [REDACTED] and acted as if to purchase a box of Frosted Flakes. [REDACTED] then pointed a handgun at [REDACTED] and demanded money from the cash register. As [REDACTED] fumbled to open the cash register, off-duty Chicago Police Officer Jorge Flores, #15489, entered the Walgreens to use the Chase ATM located adjacent to the cash register. Officer Flores approached the cash register, at which time he noticed that Ms.

██████████ appeared to be “flustered” and upset. Officer Flores then observed ██████████ standing at the cash register with the “butt” of a gun protruding from his right coat pocket. Officer Flores identified himself as a police officer and displayed his firearm. ██████████ turned towards Officer Flores and stated words to the effect of, “You’re going to have to shoot me. I’m not going back to jail.” ██████████ then pushed Officer Flores and a struggle ensued. Officer Flores was able to force ██████████ to the floor, but was unable to gain control of him. Fearing that ██████████ would shoot him, Officer Flores discharged his firearm once, striking ██████████ in the left shoulder. ██████████ was pronounced dead at Lutheran General Hospital. (Att. 4)

INVESTIGATION:

In a digitally recorded statement with IPRA on 04 February 2014, **Officer Jorge Flores #15489** related that he was off duty and went to Walgreens, located at 5320 N. Milwaukee Avenue, to use the ATM. Officer Flores related that when he entered Walgreens, he made a left turn and walked around a display to get to the ATM machine, which was located next to the cash register and exit. As Officer Flores walked around the display, he observed the cashier, now known as ██████████ who appeared nervous and was shaking. A Hispanic male, now identified as ██████████ was standing in front of the counter with his back facing Officer Flores. Officer Flores observed the cash register open and ██████████ putting money into a plastic bag that was on the counter. Officer Flores noticed the butt of a gun sticking out of the right side of ██████████ fleece jacket. Officer Flores related that he took a step back and lifted the right side of his shirt so that ██████████ could see his badge and gun. Officer Flores then unholstered his weapon, approached ██████████ put his weapon to the back of ██████████ head and announced his office.

Officer Flores related that he gave verbal commands to ██████████ to get on the floor and lie flat on his stomach and also yelled out for someone to call 911. Officer Flores related that he straddled ██████████ as he was going down to the floor so that he could control him. Once ██████████ was on the floor, Officer Flores placed his left knee on top of him to gain more control. Officer Flores continued giving verbal commands for ██████████ to show his hands and not to move. Officer Flores related that he continued to struggle with ██████████ to the point that he feared for his life. Officer Flores related that he had no choice but to retreat back because ██████████ kept moving and there was no way for him to easily gain control of Mr. ██████████ Officer Flores kept his gun pointed at ██████████ who was still on the floor, and continued to give him verbal commands not to move. Officer Flores related that ██████████ stated words to the effect of, “Well, I’m not going to jail,”¹ and then reached inside his right pocket where his weapon was located. Officer Flores continued to give out verbal commands, “Keep your hands up. Keep your hands up. Don’t do it. Don’t do it.”² Officer Flores related that once ██████████ placed his hand in his pocket, he was in fear for his life and discharged his firearm striking ██████████ Responding units then arrived to assist him and took control of the situation. (Atts. 14-15)

A **Tactical Response Report** completed by **Officer Jorge Flores #15489** documented that ██████████ “did not follow verbal directions,” “fled,” was an “imminent threat of battery,” “attack[ed] with a weapon,” and used “force likely to cause death or great bodily harm” with a

¹ Flores, Page 19, Line 18

² Flores, Page 19, Line 32, Page 20, Line 1

“weapon.” Officer Flores responded with “member presence,” “verbal commands,” “take down/emergency handcuffing,” and the use of his “firearm.” (Att. 8)

The Officers Battery Report for Officer Jorge Flores #15489 documented that he did not receive any type of injury. (Att. 9)

Security Video from **Walgreens** captured a portion of the incident. The video depicted [REDACTED] approach the check out counter and point a pistol at the Cashier. The Cashier, now known as [REDACTED] struggled several times to open the cash register. Eventually, [REDACTED] opened the cash register and started placing money into a plastic bag that was on top of the counter. As this was happening, a male figure wearing blue jeans, a black jacket and black knit cap walked into view behind [REDACTED]. The male, now known to be off-duty Officer Jorge Flores #15489, removed a gun from his right waistband, approached [REDACTED] and pointed the gun next to [REDACTED] head. A struggle ensued and then Officer Flores and [REDACTED] moved out of view from the camera. (Atts. 37-38)

In a digitally recorded statement to IPRA on 03 February 2014, **Witness** [REDACTED] related that she was working the cash register at Walgreens when she was approached by a customer, now known to be [REDACTED] placed an item on the counter and [REDACTED] scanned the item for payment. [REDACTED] then reached into his pocket and pulled out a gun with his right hand and stated that he wanted money. [REDACTED] related that she attempted to open the cash register, but was having a hard time doing so. After several attempts, [REDACTED] told [REDACTED] that she couldn't open the cash register and that he was making her nervous. [REDACTED] related that [REDACTED] put the gun away and told her to scan his item again. [REDACTED] scanned the item and entered the payment amount as cash, which opened the cash register drawer. [REDACTED] related that [REDACTED] told her to place the money in a plastic bag. As this was happening, two males entered the store. [REDACTED] related that she looked up from the counter and observed one of the males make eye contact with her. The male, now known to be off-duty Officer Jorge Flores #15489, approached [REDACTED] announced that he was an off-duty police officer and told [REDACTED] to “Stay still, don't move.”³ [REDACTED] related that Officer Flores then yelled for everyone to get down on the floor. [REDACTED] ran from the cash register across the store to the cosmetic counter where she then heard a single gun shot. [REDACTED] related that she did not observe Officer Flores struggle with [REDACTED] or observe Officer Flores shoot [REDACTED] (Atts. 18-19)

In a digitally recorded statement to IPRA on 19 February 2014, **Witness** [REDACTED] related that he was working in the back aisle of Walgreens when he heard a commotion coming from the front of the store. Mr. [REDACTED] walked to the front of the store where he observed two males wrestling with each other. Mr. [REDACTED] related that he noticed that one of the men was heavysset and wearing a hoodie, now known to be [REDACTED]. The other individual, now known to be off-duty Officer Jorge Flores #15489, yelled out that he was a police officer and that someone needed to call 911. Mr. [REDACTED] observed Officer Flores with his gun out and pointed towards [REDACTED] shoulder and stated, “Take your hands outta your pocket or I'm gonna shoot you.”⁴ Mr. [REDACTED] overheard [REDACTED] reply, “I'm not goin' back

³ [REDACTED] Page 12, Line 28

⁴ [REDACTED] Page 6, Lines 9-10

to jail. You're gonna have to shoot me.”⁵ Mr. [REDACTED] ran to his office and had one of his employee's dial 911. Mr. [REDACTED] then went to the front of the store and exited the front door. Mr. [REDACTED] locked the front door from the outside in an attempt to deter anyone else from entering the store and then heard a single gun shot. Mr. [REDACTED] related that he stayed outside until the first squad car arrived on the scene. Mr. [REDACTED] did not observe Officer Flores shoot [REDACTED] (Atts. 34-35)

Illinois State Police Forensic Science Laboratory Reports documented under Lab Case #C14-012524, that the firearm belonging to Officer Flores was tested and in proper working condition. The unfired cartridges were analyzed for caliber and type only. (Att. 52)

The related **OEMC Event Queries** documented that at 1031 hours on 03 February 2013 there was a person with a gun call at [REDACTED] N. Milwaukee Avenue. It was later determined that an off-duty police officer discharged his weapon at the location.⁶ (Att. 12)

The **General Offense Case Report** and **Detectives Supplementary Report** (RD #HX137701, Justifiable Homicide) documented that on 03 February 2014, at approximately 1117 hours, the Reporting Detectives were assigned an armed robbery/police involved shooting, which occurred at Walgreens, [REDACTED] N. Milwaukee Avenue. After arriving at the scene, the Reporting Detectives learned that off-duty Officer Jorge Flores #15489 entered Walgreens to use the ATM machine and encountered an armed subject, now known to be [REDACTED] who was in the process of committing an armed robbery. Officer Flores identified himself as a police officer, unholstered his gun and confronted [REDACTED] refused to comply with Officer Flores' directions and a struggle ensued. During the struggle, [REDACTED] grabbed a handgun that was located in his right jacket pocket. Officer Flores then fired one round from his weapon, striking Mr. [REDACTED] [REDACTED] was transported to Lutheran General Hospital by CFD Ambulance #39 and was later pronounced dead at 1309 hours.

The Reporting Detectives interviewed Sgt. Patrick Haran #861 and learned that he was the first officer on the scene. After entering Walgreens, Sgt. Haran observed Officer Flores with his gun pointed at [REDACTED] who was lying on the floor approximately 3 to 5 feet away. Sgt. Haran observed a gun next to [REDACTED] on the ground. Sgt. Haran further related that after [REDACTED] was searched and secured, District Commander James O'Donnell #13 placed [REDACTED] weapon inside a white Walgreens plastic bag to preserve the weapon for evidence. The Reporting Detectives then interviewed the Cashier, now known to be [REDACTED] and Store Manager, [REDACTED] who in essence related the same information that they provided to IPRA. The Reporting Detectives took statements of several other witnesses, ([REDACTED] Stefanski, Judyta K. Wicican, Mary O'Shea, Rashad Shehadah, Halima Omar, Patel Umesh, Nicole Munoz) who were in the store and dialed 911. These witnesses, although not eyewitnesses to the police involved shooting, essentially related that they overheard a male, now known to be Officer Flores state words to the effect of, "Let me see your hands," "Hold up your hands, hold up your hands," "Don't move, don't move," "Get on the ground or I will shoot," "Don't make me shoot you," "Keep your hands up," and "I'm gonna shoot you." (Atts. 6, 46)

⁵ [REDACTED] Page 6, Lines 10-12

⁶ The OEMC 911 callers were later identified in the Detective's Supplementary Report and provided statements to the Reporting Detectives.

The **Chicago Fire Department Ambulance Report** documented that upon arrival, [REDACTED] had a gunshot wound to his left back shoulder and had mild bleeding. A possible exit wound was observed to the right side of [REDACTED] mouth. [REDACTED] was awake and alert and there was pain to his left arm. [REDACTED] was transported in Ambulance #39 to Lutheran General Hospital. (Att. 24)

A **Certified Letter** was sent to the family of [REDACTED] detailing that IPRA is conducting an investigation into the police involved shooting. (Atts. 23, 49, 50)

Medical Records for [REDACTED] from **Lutheran General Hospital** (Medical Record #LGH-000663968) documented that Mr. [REDACTED] was admitted to the emergency room on 03 February 2014 for a through-and-through gun shot wound to the chest and was seen by Dr. Leo Thai. The documents listed [REDACTED] address as 5810 Milwaukee Avenue, Niles, IL 60714, and his date of birth as 13 April 1957. Upon admission into the hospital, [REDACTED] had rapid shallow breathing, became bradycardic and CPR was started. Four rounds of medications were given and shock was performed several times for v-fibrillation. Despite all efforts, Mr. [REDACTED] was not resuscitated and was pronounced dead at 1309 hours. (Att. 40)

Medical Examiners Report from the **Office of the Medical Examiner of Cook County** documented that the entrance wound was located 3 ½ inches from the top of [REDACTED] left shoulder. An exit wound was located on the right/anterior neck in the supraclavicular region. No bullet fragments were recovered from the wound path. The direction of the wound path was back to front, left to right, and slightly downward. The cause of death was due to a gunshot wound to the left shoulder. (Att. 43)

Crime Scene Processing Report (RD #HX137433, Armed Robbery) documented items inventoried and photographs obtained by the Evidence Technicians at the scene. [REDACTED] weapon, a Gamo V3 air pistol, was recovered at the scene and swabbed for DNA. Officer Flores' weapon was recovered and swabbed in the presence of Deputy Chief Constantine Andrews #664 and Det. Rolando Rodriguez #20751 in the Area North Detective Division. The report was submitted by Officer Eric Szwed #4781. (Att. 10)

Evidence Technician Photographs documented areas of the scene where the shooting occurred. Photographs were also taken of [REDACTED] and his vehicle. The photographs were obtained by Evidence Technicians Eric Szwed #4781 and Hiram Gutierrez #11666. (Att. 27)

CONCLUSION AND FINDING:

This investigation found that the use of deadly force by the involved Chicago Police Officer was **Justified** and in compliance with Chicago Police Department policy and Illinois State statutes. According to the Chicago Police Department's General Order 02-08-03, III:

- A. "a sworn member is justified in using force likely to cause death or great bodily harm only when he or she reasonably believes that such force is necessary:

1. to prevent death or great bodily harm to the sworn member or to another person, or;
2. to prevent an arrest from being defeated by resistance or escape and the sworn member reasonably believes that the person to be arrested:
 - a. has committed or has attempted to commit a forcible felony which involves the infliction, threatened infliction, or threatened use of physical force likely to cause death or great bodily harm or;
 - b. is attempting to escape by use of a deadly weapon or;
 - c. otherwise indicates that he or she will endanger human life or inflict great bodily harm unless arrested without delay.”

The actions of Officer Flores were in accordance with the statute “to prevent death or great bodily harm to the sworn member or to another person.” Officer Flores entered Walgreens as the subject, [REDACTED] was in the process of committing an armed robbery. Officer Flores approached [REDACTED] and repeatedly gave verbal commands for [REDACTED] to show his hands and not to reach for his firearm. [REDACTED] failed to comply with Officer Flores commands and stated, “I’m not going back to jail,” which was confirmed by numerous independent witnesses. Officer Flores was in fear for his life when [REDACTED] reached for his firearm. Officer Flores subsequently discharged his firearm, striking [REDACTED] in the left shoulder, which stopped the threat posed by [REDACTED]

[REDACTED] #170
Inv. William Abbruzzese #170

Approved:

[REDACTED]
IPRA Supervisor